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House Unit Prepares Curb on CIA Prepublication Review

LEGISLATION is being written to remove from the intelligence agencies the final decision on whether books proposed by their employees or former employees contain sensitive material that should be excised.

Rep. Les Aspin (D., Wis.), a member of the House Intelligence Committee, has instructed his staff to come up with legislation to establish an independent appeals board and limit the power of all government bodies to require secrecy or prepublication review agreements of their employees.

Aspin, in a mid-April House speech, said the proscription on all government entities was necessary because the Supreme Court's February decision in the Frank Snapp case was so broad that any agencies that deal with confidential information could hide behind it. Aspin cited the Agriculture, Commerce and Interior Departments and the Environmental Protection Agency as examples. The law, he said, should set limits on the power of the intelligence agencies to excise material from manuscripts and at the same time should set strong penalties on violators of the agreements. But Aspin would limit liability to those who signed the secrecy oath.

"Threatening publishers will certainly add to the costs of administering the law," he said. "The publisher's lawyers will argue the legal implications and provide a boon for the publishers of legal briefs. The author understands the nuances of classification; the publishers do not."

Aspin's proposed legislation is partly an outgrowth of concern over the Central Intelligence Agency's handling of prepublication review powers. Citing March 6 testimony by the CIA (he made public "sanitized" transcripts of the closed briefing), Aspin said it is clear the CIA "applies the review process strenuously to books, sporadically to magazine articles, rarely, if at all, to columnists, and never to speeches or lectures."

Aspin questioned the CIA's logic in

limiting its reviews primarily to books. "The revelation of classified information in an article may be even more damaging than its revelation in a book, because of the time factor," Aspin said. He suggested that the CIA may be concentrating on books, like those of Snapp and John R. Stockwell, rather than articles, like those of Cord Meyer and Tom Braden, both of whom are columnists and former CIA officials, "because critics have concentrated on books as their outlets."

Aspin said he was also concerned that during their reviews, intelligence agencies might excise material not because it was classified, but because it would be embarrassing.

Any law considered, he said, "must be explicit and unprejudiced in defining exactly what materials the intelligence agencies may require their employees and former employees to submit for review."

Former Attorney General Griffin Bell proposed similar legislation in an article for *The Washington Post*.

The CIA already has indicated it may resist such proposals. When Aspin brought up the suggestion at the closed March briefing, CIA lawyer Ernest Mayerfield objected: "I don't see how an independent and, if you will, impartial body can make a determination as to whether a piece of CIA information requires protection under the Executive Order."

The CIA may be planning to go after still another author publishing a book in violation of CIA strictures. The plan is hinted at in the March 6 "sanitized" transcripts in which officials said it was too soon after the Supreme Court's Snapp decision to decide what further action the CIA would take. The Stockwell case, pressed immediately after the Snapp decision, had been pending before the Justice Department prior to

the court decision, said one CIA official. Then followed this exchange:

Rep. Aspin—"So they just recently decided to take it [the Stockwell case] up?"

Mayerfield—"Because of the Snapp decision."

Aspin—"Do you have any others pending over there?"

Mayerfield—(Material deleted.)

The fact that testimony was deleted at that point may indicate pending action the CIA wants to keep secret.

Generally, however, it would appear the CIA's troubles with recalcitrant former agents have eased. Mayerfield said, "We find, not to our great surprise, that we have not had to take the initiative, because in the last few weeks the phone has been ringing off the hook and our mailboxes are stuffed with questions."

Elsewhere in the testimony, it was revealed that one of the longest books the CIA review board has had to read for clearance is a tome of more than 500 pages submitted by Meyer for review.

At other places in the testimony, however, CIA officials acknowledged that Meyer does not submit his syndicated columns for review. "That is not to say that they have not been asked," said one official of Meyer and Tom Braden.

Aspin asked officials if they were "going to go after them in a court of law and ask for a return of their money" as the agency got in the Snapp case and is seeking in the Stockwell case.

"That is not my decision," the review board's chairman, Herbert Hetu, answered, deferring to the Justice Department.

Hetu said that in the three years of the board's activities, 198 manuscripts (not all books) have been reviewed. Two by current employees and one by

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